

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 1:03-cr-128  
also Case No. 1:08-cv-150

-vs-

:

District Judge Susan J. Dlott  
Chief Magistrate Judge Michael R. Merz

TIMOTHY SMITH,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

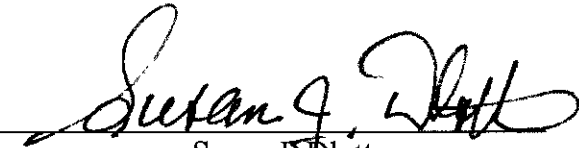
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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. No. 101), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on June 23, 2008, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that Defendant's Motion to Vacate under 28 U.S.C. § 2255 (Doc. No. 96) be, and it hereby is, denied with prejudice. Defendant is likewise denied leave to appeal *in forma pauperis* and any requested certificate of appealability.

July 3, 2008.

  
Susan J. Dlott  
United States District Judge